

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GARY LABARBERA, et al.,

Plaintiffs,

— against —

ON PAR CONTRACTING CORP.
d/b/a ON-PAR CONTRACTING,

Defendant.

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TOWNES, United States District Judge:

MEMORANDUM and ORDER

06 CV 6244 (SLT)(RER)

Plaintiffs Gary Labarbera and Frank Finkel, as trustees of Local 282 International Brotherhood of Teamsters (the “Union”) Welfare, Pension, Annuity, Job Training and Vacation Sick Leave Trust Funds, bring this action against defendant On Par Contracting Corp., doing business as On-Par Contracting (“On-Par”), for violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1132 and 1145 (“ERISA”) and the Labor-Management Relations Act of 1947, as amended, 29 U.S.C. § 185, by failing to make the required contributions to the Funds. On December 22, 2006, plaintiffs moved for default judgment, and on June 11, 2007, this Court (TOWNES, U.S.D.J.) referred the plaintiffs’ motion to Magistrate Judge Ramon E. Reyes for a Report and Recommendation. This Court now adopts Judge Reyes’s Report and Recommendation in its entirety.

A district court judge may designate a magistrate to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within ten days of service of the recommendation, any party may file written objections to the magistrate's

report. *See id.* Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. *See id.*

The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's Order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

In this case, Judge Reyes recommended that the Court grant plaintiffs' motion and that default judgment be entered against defendant in the amount of \$132,722.88. No objections to the Report and Recommendation were timely filed with this Court. Upon review of the recommendation, this Court adopts and affirms the Report and Recommendation of Magistrate Judge Reyes in its entirety and plaintiff's motion for a default judgment in the amount of \$132,722.88 is granted.

SO ORDERED.

Dated: Brooklyn, New York
August 14, 2007

Sandra L. Townes

SANDRA L. TOWNES
United States District Judge